

Excerpts
Planning Commission Minutes
March 10, 2004

Application No. ZM-82-04 (conditional), Seaford Scallop Co., Inc: Request to amend the York County Zoning Map by reclassifying an approximately 1.8-acre portion of a 3.32-acre parcel of land located at 413 Shirley Road (Route 626), approximately 262 feet east of the intersection of Shirley Road and Ironmonger Lane (private), from RR (Rural Residential) to WCI (Water-oriented Commercial/Industrial) subject to conditions voluntarily proffered by the property owner. The property is further identified as Assessor's Parcel No. 25-27B. Proffered conditions address extension of an existing pier, landscaping, fencing, outdoor lighting, noise, signage, utilities, limitations on public road access, and the prohibition of certain uses. The Comprehensive Plan designates this property for Limited Business.

Mr. Tim Cross, Principal Planner, summarized the staff report, in which the staff recommended approval. He noted that the intent of the Comprehensive Plan in designating the subject property for Limited Business is to recognize the applicant's existing facilities on Shirley Road.

Chair Andrew Simasek opened the public hearing.

Conway H. Sheild, III, Esq., Jones Blechman Woltz & Kelly, P.C., 701 Town Center Drive, Newport News, stated his client is supportive of the staff conclusion. He explained that approval would afford the applicant the additional docking area required to abide by recent federal regulations decreasing the number of days boats can be at sea. He said the business would operate the same as it has in the past. He requested that Mr. Bill Ellen be permitted to conclude the applicant's presentation upon his arrival.

Mr. John Pandolf, 101 Ironmonger Lane, said he had reviewed the plan and had several concerns. **Mr. Pandolf** asked if York County had a method of monitoring the applicant's number of employees. If the number of employees or heavy equipment traffic were to increase, the ability of Shirley Road to handle the increase in traffic would be compromised, he said, adding that congestion is already a problem near the terminus of Shirley Road.

Mr. Pandolf wanted to know about security on the applicant's property and specifically how security lighting would affect the adjoining properties.

He wondered if the applicant would consider installing a separate dock for public fishing.

Ms. Barbara Zeno, 110 Ironmonger Lane, lives adjacent to the applicant's property. She asked the applicant to consider the noise levels and remember the neighbors want peace and quiet early and late in the day. She also wanted assurance the applicant's

property that is not part of this rezoning request remain Rural Residential.

Mr. Aaron Zeno, 110 Ironmonger Lane, described the applicant, Mr. Wells, as a good neighbor who provided ice for the neighborhood after the Storm Isabel. **Mr. Zeno** was not opposed to the rezoning as requested, but he voiced concern about a possible increase in the number of employees for the subject business, the lack of improvements to Shirley Road, the direction and level of additional lighting, and noise from docked boats early in the morning.

Mr. Bill Wells, III, 109 Kings Grant Drive, General Manager, Seaford Scallop Company, responded to some of the neighbors' concerns. He said the operating hours are from 7 a.m. to 4 p.m., occasionally as late as 6 p.m. The heaviest trucking days generally are Tuesdays and Thursdays, with no significant truck traffic entering or leaving the business site on other days. He said it is important to him for the rest of the property to remain residential and he does not intend to change that. It provides a buffer between his business and the neighbors. He plans to place dredging spoils on his acres to the east. He has no plans for a marina.

Mr. Bill Ellen, William B. Ellen, Inc., Gloucester, showed a plan to the Commissioners depicting the 3.4-acre parcel without the line that would separate the residential from the business uses and indicating the bottom of the dredge cut. He described the method for dredging and the average 3.5 ft level of the spoil material once it is placed on the property. There is adequate space to retain the material safely, he added. **Mr. Ellen** said the plan is to temporarily stockpile the spoil material before selling or giving it away and return the lot as close as possible to its natural slope.

Mr. Ptasznik asked Mr. Ellen if he had been involved in dredging at other piers, and if so, where the spoils were placed. **Mr. Ellen** said he had, and the spoils were placed temporarily on land.

Chair Simasek closed the public hearing.

Mr. Simasek asked about the direction of additional lighting. **Mr. Cross** said the lights will be pointed downward, that the staff suggested a more restrictive standard in this particular instance than is usually recommended for commercial/industrial sites.

Mr. Simasek asked if the County will monitor the number of employees working for the applicant, and **Mr. Cross** noted there is no mechanism for the County to monitor staffing levels but if neighbors note an increase in traffic, for instance, they could report that and trigger an inspection of staffing levels. The County relies on community monitoring, especially in residential areas, he noted.

Mr. Simasek asked about a public dock. **Mr. Carter** said that when the Virginia Department of Transportation relinquished the dock the applicant indicated a willingness

to provide some public dock space, but that was not a requirement of VDOT's abandonment, the County has not pursued it.

Mr. Hamilton said getting into the property seems to be a challenge and there are no plans to improve Shirley Road. **Mr. Cross** replied that truck traffic is not expected to increase as a result of this application.

Mr. Barba said the members of the Wells family have been unusually good neighbors, particularly after Storm Isabel, and good corporate citizens. There is no reason to doubt the application would involve anything other than exactly what has been proposed. He favored approval.

Mr. Harvell reported that when he visited the applicant's operation, he was very impressed with the property, building maintenance, docking and safety systems, and the general operation. He appreciated the respect for the property and waterways that was reflected in the operation.

Mr. Davis moved adoption of Resolution PC 04-5.

PC04-5

On motion of Mr. Davis, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A REQUEST TO RECLASSIFY APPROXIMATELY 1.8 ACRES OF LAND LOCATED AT 413 SHIRLEY ROAD FRM RR (RURAL RESIDENTIAL) TO WCI (WATER-ORIENTED COMMERCIAL/INDUSTRIAL)

WHEREAS, Seaford Scallop has submitted Application No. ZM-82-04 (conditional) requesting to amend the York County Zoning Map by reclassifying from RR (Rural Residential) to WCI (Water-oriented Commercial/Industrial) an approximately 1.8-acre portion of a 3.32-acre parcel of land located at 413 Shirley Road (Route 626) and further identified as Assessor's Parcel No. 25-27B, subject to conditions voluntarily proffered by the property owner; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 10th day of March, 2004, that Application No. ZM-82-04 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying an approximately 1.8-acre portion of a 3.32-acre parcel of land located at 413 Shirley Road (Route 626), further identified as Assessor's Parcel No. 25-27B and more fully described as the area designated "PROPOSED ZONING WCI" on the "Concept Plan Showing Proposed Zoning Amendment" prepared by Davis & Associates, P.C. and dated January 20, 2004, a copy of which shall remain on file in the Planning Division. The property is more fully described and identified as follows:

All that certain lot, piece or parcel of land situate, lying and being in the County of York, Virginia, containing 1.83+ acres, described as follows:

Commencing at an iron pipe found on the northerly right of way line of Shirley Road, State Route 626, and the common boundary corner of the property of Seaford Scallop Co., Inc. and the property of Robert W. Wilson, thence from the point thus established N 77° 08' 13" E, 150.00' (feet) to a point being the point and place of beginning. Thence from the point and place of beginning thus established N 12° 15' 00" W, approximately 423' (feet) to the mean low water mark of Back River, thence in an easterly direction approximately 222' feet along the low water mark of Back Creek to the property of Wells Ice and Cold Storage; thence S 07° 20' 30" E, approximately 439' (feet) to a point on the northerly right of way line of Shirley Road, State Route 626; thence S 77° 08' 13" W, 183.00' (feet) to an iron pipe being the point and place of beginning.

It is intended that all riparian rights vested in the parent tract be transferred with the parcel described above.

BE IT FURTHER RESOLVED that the Planning Commission recommends that approval of the above-mentioned application be subject to the conditions set forth in the proffer statement titled "Proffer Statement for Change of Zoning," signed by William S. Wells, Jr., and dated February 24, 2004, a copy of which shall remain on file in the Planning Division.

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